

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI

**AMENDED**  
**REGULATIONS GOVERNING THE DISBURSEMENT OF FUNDS**  
**FROM THE NON-APPROPRIATED FUND FOR**  
**ATTORNEY'S FEES AND OUT-OF-POCKET EXPENSES INCURRED BY**  
**ATTORNEYS APPOINTED TO REPRESENT INDIGENT PARTIES IN**  
**CIVIL PROCEEDINGS PURSUANT TO 28 U.S.C. §1915(e)**

**A. Eligibility for Disbursement: Compensation for Attorney's Fees and Reimbursement of Expenses**

When an attorney has been appointed to represent an indigent party in a civil proceeding before this Court pursuant to 28 U.S.C. §1915(e), that attorney may apply to the Court for compensation of fees and reimbursement of expenses incurred in the preparation and presentation of the proceeding, subject to the restrictions of these regulations.

**B. Limitations**

1. *Not Applicable if Criminal Justice Act Funds are Available*

In any proceeding in which fees and expenses are covered by the Criminal Justice Act, 18 U.S.C. § 3006A, such fees and expenses shall be paid from such funds in accordance with CJA guidelines and not from the non-appropriated fund.

2. *Limit on Compensation for Attorney's Fees*

The judge to whom the proceeding is assigned is authorized to approve compensation of fees. For requests submitted on or after January 15, 2008 , the maximum compensation for attorney's fees for any one appointment in a civil proceeding is five thousand dollars (\$5,000). This limit may not be exceeded under any circumstances.

3. *Limit on Assigned Judge's Authority to Order Reimbursement of Out-of-Pocket Expenses*

The judge to whom the proceeding is assigned is authorized to approve reimbursement of out-of-pocket expenses up to five thousand dollars (\$5,000). If an attorney requests reimbursement of expenses in excess of \$5,000, the assigned judge may order compensation of any claimed attorney's fees, but shall forward the request for reimbursement of expenses to the chairperson of the non-appropriated fund committee together with a recommendation thereon. The chairperson shall present the assigned judge's recommendation concerning reimbursement of expenses to the non-appropriated fund committee for consideration.

If an attorney requests reimbursement of expenses in excess of ten thousand dollars (\$10,000), the chairperson of the non-appropriated fund committee shall present the assigned judge's recommendation to the non-appropriated fund committee for consideration, and thereafter shall present the recommendation to the district court as a whole for consideration. Four district judges must approve any disbursement for reimbursement of expenses in excess of \$10,000.

4. *Limited to Civil Matters Before the District Court*

Only those attorney's fees and expenses associated with the preparation and/or trial of a civil suit, action or proceeding in the United States District Court for the Eastern District of Missouri shall be approved for disbursement. No attorney's fees, costs or expenses associated with the preparation or presentation of an appeal to any United States Court of Appeals or the United States Supreme Court shall be eligible for disbursements from the non-appropriated fund.

5. *Overhead Costs and Costs of Printing Briefs Not Covered*

General office expenses, including personnel costs, rent, telephone services, secretarial help and other overhead-type expenses are not reimbursable from the non-appropriated fund. The

expense of printing briefs, regardless of the printing method utilized, is not reimbursable from the non-appropriated fund.

6. *Not Available to Pay Costs Awarded Against Party*

Under no circumstances shall any disbursements be authorized from the non-appropriated fund to compensate for attorney's fees or reimburse costs taxed as part of a judgment obtained by an adverse party against a party for whom counsel was appointed pursuant to the rules of this Court.

**C. Procedures for Obtaining Disbursements From the Fund**

1. *Request for Compensation of Fees and Reimbursement of Expenses*

Any application for the compensation of attorney's fees and reimbursement of expenses shall be submitted on the Request for Compensation of Services and Reimbursement of Out-of-Pocket Expenses form ("Request") approved by the non-appropriated fund committee. The Request form is available on the Court's Internet website, [www.moed.uscourts.gov](http://www.moed.uscourts.gov) (under the "Attorney" tab, select "Appointed Counsel Fees and Expenses - Civil Case"), or from the Clerk of the Court. Also available on the website or from the Clerk are instructions for completing the Request and worksheet forms.

The Request shall be accompanied by sufficient documentation to permit the Court to determine that the time claimed for attorney's fees was expended and was appropriate and reasonable, and that the amounts claimed for expenses were actually paid out. The Request shall be filed in the civil proceeding in which the attorney was appointed. A Request may be filed during the pendency of the civil proceeding or up to sixty (60) days following entry of a final judgment. The judge to whom the case is assigned may, for good cause shown, extend the time for filing a Request.

2. *Request from Attorney No Longer Representing Party*

When an appointed attorney is permitted to withdraw from representing the party in a civil proceeding and has incurred attorney's fees and expenses which may be compensable under these regulations, the attorney shall file a Request for Compensation of Services and Reimbursement of Out-of-Pocket Expenses within sixty (60) days of the date of the order allowing the withdrawal. Except for good cause shown, the assigned judge will not approve compensation of fees and reimbursement of expenses where the Request is filed more than sixty (60) days after the entry of the order allowing withdrawal.

3. *Requests May be Made Ex Parte*

Any Request made under these regulations may be made *ex parte*. An *ex parte* submission of a Request shall be made in conformity with the requirements for *ex parte* filing set forth in the Administrative Procedures for Case Management/Electronic Case Filing manual, available on the Court's Internet website, [www.moed.uscourts.gov](http://www.moed.uscourts.gov) (under the "CM/ECF" tab, select "Manuals" and then "Administrative Procedures").

4. *Documentation Required by Assigned Judge and/or Non-Appropriated Fund Committee*

The assigned judge and/or the non-appropriated fund committee may refuse to permit compensation of any attorney's fee or reimbursement of any expense in the absence of appropriate documentation.

5. *Processing by the Clerk*

On receipt of a Court order directing the compensation of attorney's fees and/or reimbursement of expenses from the non-appropriated fund, the Clerk shall determine whether any disbursements have previously been made from the non-appropriated fund for fees or expenses in

the same proceeding. If no such disbursements have been made, the Clerk shall promptly issue the required check or checks in the amount(s) indicated in the order. Where disbursements have previously been made from the non-appropriated fund for attorney's fees or expenses in the same proceeding, the Clerk shall determine whether the amounts authorized by the current order together with amounts previously disbursed (1) exceed the maximum attorney's fee limit of \$5,000 per appointment as established in Section B.2 of these regulations, or (2) require approval by the non-appropriated fund committee or by a quorum of the district judges because the total expenses exceed the \$5,000 limit authorized for reimbursement by the assigned judge as established in Section B.3 of these regulations.

Where such approval is required, the Clerk shall promptly forward the application to the assigned judge or to the chairperson of the non-appropriated fund committee for further action.

6. *Amounts Disbursed from the Fund to be Reimbursed from Any Fee Award*

Attorney's fees are compensable and expenses are reimbursable from the non-appropriated fund only when counsel has not otherwise been compensated or reimbursed for the representation of an appointed client. Where a fee or cost award is made to an appointed attorney, either by the Court or pursuant to a settlement agreement, the attorney awarded fees or costs shall, within twenty (20) days of receipt thereof, repay the non-appropriated fund any amounts disbursed to said attorney under these regulations.

**D. Attorney's Fees Covered**

The maximum available compensation for attorney's fees for any one appointment in a civil proceeding is five thousand dollars (\$5,000). This limit may not be exceeded under any

circumstances. However, if multiple or successive attorneys were appointed by the Court to represent an indigent party in a civil proceeding (*e.g., if appointed counsel is allowed to withdraw, and substitute counsel is appointed*), each appointed attorney may be compensated for fees up to \$5,000.

Any Request seeking compensation for attorney's fees shall be accompanied by sufficient documentation to permit the Court to determine that the time claimed for attorney's fees was expended and was appropriate and reasonable.

#### **E. Out-of-Pocket Expenses Covered**

Any Request seeking reimbursement of out-of-pocket expenses shall be accompanied by sufficient documentation to permit the Court to determine that the amounts claimed for expenses were actually paid out. If multiple or successive attorneys were appointed to represent an indigent party in a civil proceeding, each appointed attorney may request reimbursement of out-of-pocket expenses.

##### *1. Deposition and Transcript Costs*

The costs of transcripts or depositions shall not exceed the regular original page and copy rate established by the Judicial Conference of the United States in effect at the time any transcript was filed or deposition was taken, unless some other rate was previously approved by order of court. Except as otherwise ordered by the Court, only the cost of the original of any transcript or deposition together with the cost of one copy each where needed by counsel will be authorized.

## 2. *Travel Expenses*

Travel by privately-owned automobile may be claimed at the rate currently prescribed for federal judiciary employees who use a private automobile for conduct of official business, plus parking fees, tolls and similar expenses. Travel other than by privately-owned automobile may be claimed on an actual expense basis and must be approved **prior** to the travel by the judge to whom the case is assigned.

Per diem in lieu of subsistence is not allowed; only actual expenses may be reimbursed. Actual expenses reasonably incurred shall be guided by the prevailing limitations placed upon travel and subsistence expenses of federal judiciary employees in accordance with existing government travel regulations.

## 3. *Service of Papers; Witness Fees*

Those fees for service of papers and the appearance of witnesses that are not otherwise avoided, waived or recoverable may be reimbursed from the non-appropriated fund.

## 4. *Interpreter Services*

Costs of interpreter services not otherwise avoided, waived or recoverable may be reimbursed from the non-appropriated fund.

## 5. *Cost of Photocopies, Photographs, Facsimile Transmissions, Postage, Telephone Toll Calls, Telegrams*

Out-of-pocket expenses incurred for items such as photocopying services, photographs, facsimile transmissions, postage, telephone toll calls, and telegrams necessary for the preparation of a case may be reimbursed from the non-appropriated fund.

6. *Computer-Assisted Legal Research*

Expenses related to computer-assisted legal research must be accompanied by receipts that show the method of billing and the total time spent using the computerized system. In addition, a statement of the issues researched must also be included.

7. *Other Expenses*

Out-of-pocket expenses other than those described in sections 2-6 of this regulation may be approved by the assigned judge for reimbursement. When requesting reimbursement of any other expense under this section, a detailed description of the expense and the reason it was required should be attached to the Request for reimbursement filed with the assigned judge.

**SO ORDERED BY THE COURT *EN BANC* this 15th day of January, 2008.**

/s/ Carol E. Jackson

**CAROL E. JACKSON, CHIEF JUDGE**

/s/ Jean C. Hamilton

**JEAN C. HAMILTON, DISTRICT JUDGE**

/s/ Charles A. Shaw

**CHARLES A. SHAW, DISTRICT JUDGE**

/s/ Catherine D. Perry

**CATHERINE D. PERRY, DISTRICT JUDGE**

/s/ E. Richard Webber

**E. RICHARD WEBBER, DISTRICT JUDGE**

/s/ Rodney W. Sippel

**RODNEY W. SIPPEL, DISTRICT JUDGE**

/s/ Henry E. Autrey

**HENRY E. AUTREY, DISTRICT JUDGE**